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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,082	03/31/2004	William E. Lynch III	WEI-101	5648
25628 7590 05/24/2010 LAW OFFICES OF WILLIAM H. HOLT 12311 HARBOR DRIVE WOODBIDGE, VA 22192				
EXAMINER				
HADZONOZ, BANAFSHEH				
ART UNIT		PAPER NUMBER		
3715				
MAIL DATE		DELIVERY MODE		
05/24/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/813,082

**Applicant(s)**

LYNCH, WILLIAM E.

**Examiner**

Banafsheh Hadizonooz

**Art Unit**

3715

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11/30/2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Detailed Action***

In response to the amendment filed on 11/30/2009, Claims 1-8 are pending. This action is **Final**.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1, 2, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Parmenter (2,859,541).

Regarding claim 1, Parmenter discloses a template for evaluating and scoring designated pairs of responses to a series of questions, said template comprising a series of paired locations thereon, a first set of said locations being linked by indicia on said template, a pathway leading from said first set of locations to at least a second set of locations, said pathway being shown by said indicia for leading a user from said first set to said second set of locations, each of said locations having means for allowing viewing through said template (See Col.1, 28-41, Col.4, 19-29 and Figure 4).

Regarding claim 2, Parmenter further discloses a template as defined in claim 1, wherein said indicia comprises a series of lines connecting the sets together (See figure 5 and Col.4, 19-29).

With respect to claims 6 and 7, Parmenter further discloses a method for evaluating the pairs of responses to a series of questions by positioning the template upon an answer sheet and following a pathway wherein said pathway is comprised of a continuous line (See Figure 4).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parmenter (2,859,541).

Regarding claim 3, Parmenter discloses that the indicia comprise a series of solid lines connecting the sets together. Parmenter does not specifically disclose a series of alternating solid and broken lines on the indicia. However, the only difference between the prior art product and the claimed invention is printed matter that is not functionally related to the product. Moreover, the content of the printed matter will not distinguish the claimed invention from the prior art. See *re Ngai*, 367 F.3d 1336, 1339, 70 USPQ2d 1862, 1864 (Fed. Cir. 2004).

With respect to claims 4, 5 and 8, Parmenter discloses that the color applied to the lines that connect one group of questions on the indicia is different from the color applied to the lines connecting another group of questions in order to distinguish the groups (See Col.4, 19-29). Parmenter does not specifically disclose identifying each

pairs of locations by an identical geometric shape for a pair of locations and a different geometrical shape for the next consecutive pair. However, Lousig-Nont discloses an honesty testing and scoring evaluator, wherein the honest attitude answers are connected with symbols with geometrical shapes. Moreover, different degrees of honest answers are grouped together with different geometrical symbols. Therefore, it would have been obvious to one of ordinary skill in the art to modify Parmenter's invention and use geometrical shapes rather than colors to group answers together in order to provide more distinguishable visual paths for easy grading.

#### ***Response to Arguments***

Applicant's arguments filed on 11/30/2009 have been fully considered but they are not persuasive.

Applicant argues that Parmenter discloses a template that is for scoring answers to single independent questions, whereas the claimed invention discloses a template for scoring designated pairs. Examiner respectfully disagrees. In column 4, Lines 19-40, Parmenter specifically disclose that if questions are arranged in several group types (e.g. related), the lines connecting the correct answers in one group is in different color from the lines connecting the answer in another group. Examiner also notes that a group of questions includes two or more questions that have some sort of relationship (Merriam Webster defines a group as a number of individuals assembled together or having some unifying relationship). Therefore, a group of questions disclosed by Parmenter are not completely unrelated.

Regarding the rejection of claim 3, in addition to the above, applicant states that Parmenter does not mention connecting any sets together. Examiner refers the applicant to Figure 4 and Column 4, line 19-29.

The applicant further argues that the use of the colored lines to connect the answers as disclosed by Parmenter is only possible if the questions are pre-arranged in groups. Examiner respectfully disagrees. The colored lines serve the same purpose as the solid and dashed lines disclosed in the claimed invention and the question need not be necessarily pre-arranged for this purpose. Applicant further makes an example in his argument and stated that use of alternating colors is not as advantageous as using different shapes for designated pairs of responses. Examiner notes that Parmenter discloses use of a different color for each group. The colors do not have to necessarily be alternating.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Banafsheh Hadizonooz whose telephone number is 571-272-1242. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272- 7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BH

/Cameron Saadat/  
Primary Examiner, Art Unit 3715